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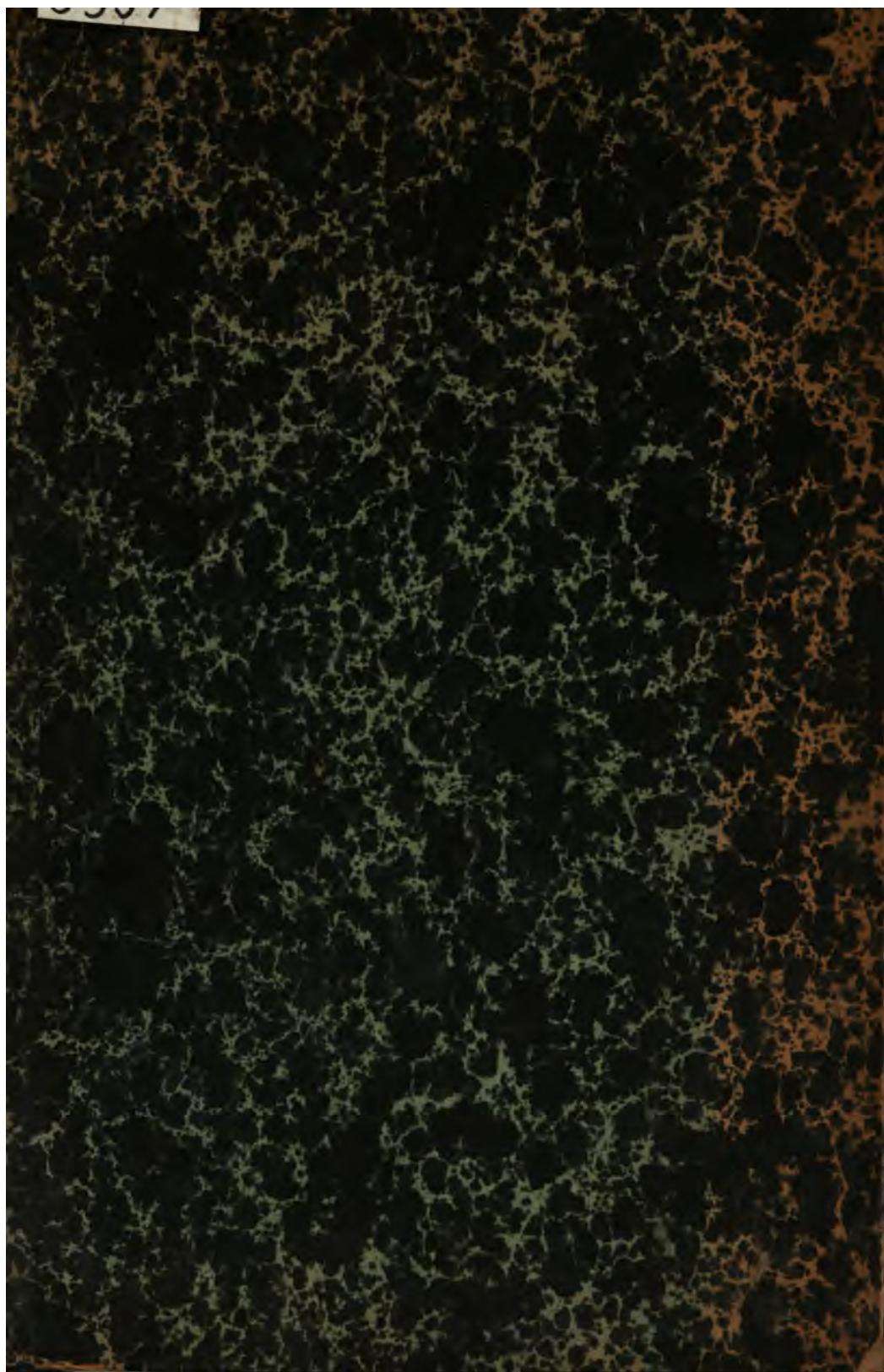
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January 23, 1930

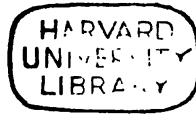


"Is This A Christian Country?"

Address by

Rabbi Moses Pérez Jacobson

KF 395-7



IS THIS A CHRISTIAN COUNTRY?

Address by

MOSES P. JACOBSON,

Delivered at

Shreveport, La., March 7, 1913.

In the controversy now raging amongst us on the proposition to introduce religious exercises into our public schools, the argument has been injected that this a Christian country. What the argument has to do with the question at issue, I am at a loss to comprehend. The controversy is between Americans and Americans,—between American Christians and American Christians equally as intensely as between American Christians and American non-Christians. While the proposition has been fathered, or rather mothered, by Protestants, there are a considerable number of Protestants opposed to the measure and our Catholics here as an entire body are arrayed against it. I have been quoted as saying that I represented the Catholics in my hostility to it. I said nothing of the sort. I said simply that on the day our local press first bruited the proposition, many Catholics, and even Protestants, urged me to come out boldly against it. The advocates of this measure by pretending that I claimed official representation of the Catholics are seeking simply to divide our forces by alienating the Catholics from our support. These proposers have quoted even Cardinal Newman in favor of Bible readings in the public schools. They fail to inform us, however, that this utterance by Cardinal Newman was made while yet he was a minister of the Church of England and previous to his conversion to Catholicism. The quotations in their pamphlet from Archbishop Ireland and Cardinal Gibbons are equally dishonest. These high ecclesiastics of the Church of Rome here in this country have expressed

themselves in favor of the religious training of the children in the public schools, it is true, but of the religious training of the children of each denomination by the official religious teachers of that denomination—a wholly different proposition from that demanded by the petition now before our public. That there may be no equivocation as to the Catholic attitude on this question, let me quote from the New York “Catholic News” an utterance made when this same controversy agitated the State of New York:

“The only claim Protestantism has on this country is that it intruded itself here after the continent had been discovered by Catholics and immediately began persecuting them. An American Protestant has the same right as an American Mohammedan and as an American Hebrew—but no more. And when he undertakes to impose his King James (Lion and Unicorn) English Bible, he will find that American Catholics will not tolerate his intolerance. The Protestant Bible in the public schools, for the support of which Catholics pay taxes, must go.”

So, then, in this controversy, any opinions which prominent Jews may have expressed in admiration of Jesus,—opinions which some writer in yesterday morning’s Times quotes against me,—have no bearing whatsoever. The Catholics have certainly as high and reverential a regard for Jesus as have the Protstants and yet they want no Bible readings in the public schools, and no Protestant version of what is commonly called the Lord’s Prayer. However, as to these Jewish opinions regarding Jesus, while I may not be as prominent and as authoritative as the Jews the writer has cited, nevertheless, as a man born long after them, I have had the advantage of becoming acquainted with the more recent scholarship in this regard; and, that there may be no misunderstanding about

the matter, I may state right here that I agree with the latest Christian authorities, Professor William B. Smith, of Tulane, Professor Arthur Drews of Germany, and the Honorable John M. Robertson of England, who are convincing the educated world to-day that the whole Christ story is a myth and a legend and that of a human Jesus we have recorded not a single authentic fact nor a single authentic saying upon which we can construct a positive historic character—ideal or otherwise.

But all this is non-germane to the question at present before us, which is, "Is this a Christian country?"

The most childish proofs have been adduced that it is. One of the arguments advanced is that even the President of the United States, when inducted into office, takes his official oath on the Bible. In Prussia, until the year 1869, every Jewish witness was required to take an oath "more Judaico," that is, "in a Jewish way." He was led to the nearest synagogue and there made to swear with his hand on the sacred Hebrew scroll. Prussian law thus recognized the Jewish oath. The same logic, then, which from our American oath infers that this is a Christian country would have required Prussia at that time to have been denominated a Jewish country, would have compelled it to introduce into its schools Pentateuchal readings in Hebrew and would have made the synagogue its official church. The requirement of an oath on the Bible is not a recognition or honoring of Biblical religion. On the contrary it is a dishonoring of the man or woman from whom the oath is required. It means a distrust of that party's manhood or womanhood in that particular instance unless the party binds himself by the most solemn form and formula his convictions recognize. Whenever a man, however, rises to such a grandeur of personal consciousness that his simple word is his highest and most

solemn attestation of truth or of his integrity of purpose, there is not a court in our land in which, nor any occasion on which his mere affirmation will not be permitted and recognized. And were any President-elect great enough to demand that his simple word shall be the sufficient guarantee of his conscientious intention honorably to discharge the functions of his office, that very attitude would at once make him the idol of our American millions who are ever enthusiasts over plain, honest manhood, and would at once lift him into a star of the first magnitude in the brilliant galaxy of our Presidential immortals.

Another argument of this nature is that we use officially and in common practice the era A. D., Anno Domini, "In the year of the Lord." But this is merely a conformity with a world-wide convention, so that our datings, the times and terms of our engagements may be universally and readily understood. However, as you all well-know, every national document of exceptional importance bears an additional dating, namely from "the year of the independence of the United States of America," and if we can be said to possess an officially recognized era, it is only this.

However, in Watson "On the Constitution," p. 1732, all argument of this puerile order as to our national religious character is summarily disposed of with the brief remark, "The device on the silver dollar 'In God We Trust,' can not be regarded as a governmental expression on the subject of religion."

Proof of a more serious order confronts us in the series of correlated facts that both Houses of Congress and all our State legislatures open with daily prayer by official chaplains, that chaplains are provided for the army and navy, and that our President and all our Governors issue proclamations ordering an annual day of

religious Thanksgiving. James Bryce, the English ambassador and statesman, a sympathetic observer and himself a strict Christian, in his "American Commonwealth" remarks upon these facts that it is just because the question of the governmental separation of Church and State has long been disposed of and excites no present passion, and perhaps also because the Americans are more practically easy-going than pedantically exact, that the national government and the state governments do give to Christianity this species of recognition inconsistent with the constitutional principle that civil government should be absolutely neutral on the subject of religion.

With other words in the verdict of this Christian diplomat and statesman these religious manifestations in our American political life are a sort of religious or spiritual boot-legging,—a direct violation and defiance of law in our governmental departments which is simply suffered by our easy-going American nature.

However, this pious boot-legging is not suffered, nor has it been suffered at any time wholly without protest. There has been protest against it, formal and heated protest, even in both the Senate and the House of Congress. In 1839, in 1840, in 1845, in 1850, and in 1860 strenuous efforts were made to abolish the office of chaplain in both the Houses. On the 7th of December, 1840, Mr. Chapman said in the House that he knew very well that in this matter of the chaplaincy precedent might be pleaded, and gentlemen might refer to the uniform practice of the House; but with him precedent did not weigh one straw. The Constitution was his guide, and though it could be shown that the House had been perpetually in the breach of that instrument from the foundation of the Government, he was ready to take all the consequences of refusing to vote. Mr. Pettit said in the House on the

22nd of December, 1845: "It is clear by the Constitution of the United States that the House or Congress can not legislate on the subject of religion. I, therefore, believe that it is a direct and palpable violation of the Constitution to foster in any form or manner any religion whatsoever, or to pay out one dollar, aye, one farthing of the public money on that object." On the 28th of February, 1860, replying to Mr. Millson who, in moving to proceed to the election of a chaplain, stated that his was a resolution offered to complete the organization of the House, Mr. Burnett said: "I would be glad to know where the gentleman from Virginia gets his authority. If there is anything in the Constitution, anything in the laws, anything in the rules of this House, authorizing the election of a chaplain, and making his election necessary for a complete organization of this House, I have never seen it."

There was never the pretext of an attempt made to controvert this constitutional position. The bigoted or the timid majority,—i.e. timid as over against their constituents,—showed simply their determination in spite of argument to sustain precedent against law and their abuse of their power of numbers was such that the taunt was forced from Mr. Houston: "I see there is a determination that we shall not have a fair vote on the contesting propositions, but that chaplains are to be foisted on the people."

Foisted, you are aware, was in 1860 the colloquialism for boot-legging. Just think of the phrase, "Chaplains are to be boot-legged upon the people."

These religious associations with our government are then simply survivals from our political evolution up from the ecclesiastical governments of the past and of Europe. As such they are to our body politic what the

vermiform appendix is in the human body, not organic, normal constitutional structures or functions, not evidences of or sources of congratulation and argument as to our governmental health, but on the contrary, constant and serious menaces to our national life,—menaces which the brave surgery of political honesty must some day cut out.

And here, let me say that, if we are forced to the issue, what menaces of this nature exist amongst us we shall cut out here. If our local Board of Education will heed the bray of their self-constituted spokesman in this morning's Times, and in spite of their attorney's opinion, unconstitutionally grant this petition and thus force us to go to Baton Rouge, then if we get the final verdict, as get it we shall, the pious boot-legging of prayers in our parish schools and of Christian stories and Christmas exercises in our public kindergarten which we have been conniving at hitherto, we shall put an end to. If we must fight we shall fight all along the line, for we shall not make ourselves any more unpopular or disagreeable to our fanatics here by a complete victory than we shall by a partial victory.

Sunday legislation is a second serious argument in possession of those who claim that this is a Christian country. But none of our State Supreme Courts have ever so much as attempted to justify Sunday legislation on religious grounds. They, one and all, dodge the issue by classifying Sunday legislation among the prerogatives of police power and place it in the same category with the regulations permissible to every state and community with reference to election days. On this same basis of public order and common decency are justified likewise the blasphemy laws which still disgrace the statutes of a few of our states. No State Supreme Court has had the

assurance to champion these two categories of laws in their implied religious character. In the great national test on the Sunday question in the Senate on the proposition to discontinue the Sunday mails, Richard M. Johnson, whose report defeated the proposition, said: "While the mail is transported on Saturday the Jew and the Sabatarian may abstain from any agency in carrying it, on conscientious scruples. While it is transferred on the first day of the week, another class may abstain, from the same religious scruples. The obligation of Government is the same on both these classes; and the committee can discover no principle on which the claims of the one shall be respected more than those of the other; unless it be admitted that the consciences of the minority are less sacred than those of the majority."

The next argument that meets us maintaining that this is a Christian Country is in this matter of religious exercises in the public schools. It has been stated here in pulpit and press that thirty-six states have decreed in favor of such exercises. This can mean only that thirty-six State Supreme Courts have passed on this question, for in no other way have States so decreed or can States so decree. This statement, I say emphatically, is a misrepresentation. Only seven States, Maine, Massachusetts, Michigan, Iowa, Kansas, Kentucky and Texas, have ruled in favor of such exercises, and they have ruled so only qualifiedly. If in twenty-nine other States religious exercises are held in the public schools,—a contention which I seriously question,—religion, to use my phrase, has been simply boot-legged into those schools. In some of these decisions of these seven States, the contenders for the proposition that this is a Christian country may find some equivocal support for their contention, however only as to these particular States. In the so-called Girard

Will Case, Justice Joseph Story, maintained outright that Christianity was part of the common law of Pennsylvania. But if this dictum has any authority, something that is seriously questioned, it has authority only in and for the State of Pennsylvania. No such State Supreme Court opinion has any weight or bearing on the general question we are now considering, namely, as to whether ours is a Christian country. The only State Supreme Court expression which I can here be asked or required to consider is that of our own State, Louisiana. And in 1879 in an opinion which has never been receded from or called into question, our Supreme Court decided in the case of "The State vs. J. P. Bott: "This," i.e. the contention that a certain law had a Christian motive or basis,—“is the rock upon which the prosecution would split, if it really existed.....It has been frequently maintained that Christianity is a part of the law of the land, and while in a certain sense and for certain purposes it may be true in those States which adopted and have retained the common law, it must be remembered that system never prevailed, nor had any lodgment in this State, save the brief period between the acquisition of this country by the United States and the Act of 1805, when the criminal part of that system was in force.”

Undoubtedly the utterances of our Presidents as to the character of our government are entitled at least to some respect. But if so we are at once confronted with Abraham Lincoln's express statement: "The Bible is not my book, nor Christianity my profession." Washington, John Adams and Jefferson were known in their day to be "Deists," that is, of the same religious opinions as were held and advocated by Thomas Paine and they would be classed to-day, as in fact, they were accused in their day, with Paine, of being Atheists, although the

classification would be and the accusation was incorrect. In every event, however, they were outright repudiators of Christianity.

Our local petitioners for religion in our public schools, however, are before us with an array of quotations from our Presidents in praise of the Bible. I, as a son of Israel, the people whose production the Old Testament was and whose sons are commonly, though I think mistakenly, accredited with being the authors likewise of the New Testament, can not but be pleased with these honoring tributes to Israel's supreme book. These tributes, however, are widely beside the mark in reference to the contention that this is a Christian country or that the Bible should have a place in our public schools. The question is not what did our Presidents say about the Bible but what did they say about its official recognition under our government. It is this that our petitioners wisely refrain from informing us about. Let me supply that omission at least as to one instance which is all that I have time to quote. Had I the time I could supply several others. Grant is among those the petitioners cite. But in his speech before the Army of the Tennessee at Des Moines, Iowa, in 1875, Grant uttered these brave, staunch American words: "The free school is the promoter of that intelligence which is to preserve us as a nation. If we are to have another contest in the near future of our national existence, I predict that the dividing line will not be Mason's or Dixon's, but between patriotism and intelligence on the one side, and superstition, ambition, and ignorance on the other. . . . Let us all labor to add all needful guarantees for the more perfect security of free-thought, free speech, and free press, pure morals, unfettered religious sentiment, and of equal rights and privileges to all, irrespective of nationality,

color, or religion. Encourage free schools, and resolve that not one dollar shall be appropriated to the support of any sectarian school. Resolve that neither the state nor nation, or both combined, shall support institutions of learning other than those sufficient to afford every child growing up in the land the opportunity of a good common school education, unmixed with sectarian, pagan, or atheistical tenets. Leave the matter of religion to the family altar, the church, and the private schools, supported entirely by private contributions. Keep the church and the state forever separate."

Packard in his "Grant's Tour Around the World," tells us that Grant confidentially acquainted General Sherman with this speech in advance of its delivery and on page 566 quotes Sherman in these words: "The Des Moines speech was prompted by a desire to defend the freedom of our public schools from sectarian influences, and, as I remember the conversation, what led him to write that speech was the clamor for set religious exercises in the public schools, not from Catholics, but from Protestant denominations."

Garfield, another President quoted as eulogizing the Bible, was an equally passionate defender of the non-religious character of our Government. When he was a member of Congress he said in the House on the 22nd of June, 1874, with reference to church immunity from taxation: "The divorce between Church and State ought to be absolute. It ought to be so absolute that no Church property anywhere, in any State, or in the Nation, should be exempt from equal taxation; for if you exempt the property of any church organization to that extent you impose a tax upon the whole community."

I have said that the utterances of our Presidents upon the subject of our country's character are entitled to some

respect. This respect, however, cannot be extended to occasional unguarded phrases in their hastily prepared messages the phraseology of which for the most part is not theirs but simply that of their less careful and responsible secretaries. Either through their own haste or through the slovenliness of their secretaries, Christian phrases have now and then slipped into the messages of the Presidents. Only he whose cause is desperate would clutch at such a straw for argument. In no instance, however, has such an inadvertence been let pass unchallenged. The other day President Taft was guilty of such a piece of careless writing. At once "The Elizabeth Cady Stanton Guild of Chicago," an association composed of women mainly of Christian birth and Christian belief, took him to task in the following series of resolutions reported in the Chicago Tribune of February 19:

"Whereas, In his last message to Congress President Taft advised that 'we clothe ourselves with sufficient naval power to give weight to our influence in those directions that a powerful Christian nation should advocate;' and,

"Whereas, In the Treaty with Tripoli signed by George Washington as president occurs the declaration 'The government of the United States is in no sense founded on the Christian religion'; and,

"Whereas, The first amendment to the Constitution states that Congress shall make no laws respecting an establishment of religion; and,

"Whereas, The Constitution itself provides that no religious test shall ever be required as a qualification to any office or public trust under the United States; be it

"Resolved, That we respectfully ask President Taft upon what evidence he basis his assertion that this is a Christian country."

No doubt, President Taft, if he were pushed for reply, and if he could not blame the phrase upon his secretary, would account for it very much in the manner in which Judge Jas. M. Nelson tells us Lincoln accounted for the religious expressions in his documents. Says Judge Nelson: "I asked him once about his fervent Thanksgiving message and twitted him with being an unbeliever in what was published. 'Oh,' said he, 'that is some of Seward's nonsense and it pleases the fools.' "

The maintenance that this is a Christian country has, as far as I can find, only a single expression in its favor by a high national officer in his authoritative national capacity. This is the utterance of Justice David J. Brewer in his rendering of the decision of the Supreme Court of the United States in the so-called Holy Trinity Case. In this case the Court decided that a professional man does not come under the restrictions of our national statute which prohibits the importation of alien laborers under contract. After Justice Brewer had completely traversed this much of the Court's decision—i.e., all that part of it in which the case was definitely determined and adjudicated—because the professional man in the case happened to be a minister of Christianity, Justice Brewer attached to the deciding opinion some remarks and arguments relative to this incidental consideration; and it is in this collateral or supplementary discussion that he maintains that this is a Christian country. Such an expression by a judge which is not organically a part of the decision is known in law as an *obiter dictum*—"an opinion given in passing, and which not applying judicially to the case, is not to be resorted to as an authority." As Bouvier remarks in his standard dictionary of law: "Such opinions are frequently given without much reflection or without previous argument at the bar; and as moreover

they do not enter into the adjudication of the point before it, they have only that authority which may be accorded to the opinion, more or less deliberate, of the individual judge who announces it."

With other words this opinion of Justice Brewer is not recognized as possessing any authoritative value whatsoever by any one possessing any knowledge of the values of judicial pronouncements. It is regarded but as the expression of a private individual, and in this case as that of one who is to be excused for his sectarian bias in the fact that both his parents were Christian missionaries and that he was born and for some time reared in the missionary atmosphere of the Orient. The opinion is a Christian's opinion, not the opinion of an American and a jurist.

Over against this we have the unanimous pronouncement of the United States Supreme Court, in the case of "Reynolds vs. the United States," that religion cannot override the law of the land, and hence cannot have any authority or special consideration under our Constitution, which expressly forbids the special recognition of religion either for favor or disfavor. In this test case of the Mormon Church as to its practice of polygamy, Chief Justice Waite, in delivering the opinion of the Court, says: "So here as a law of the organization of society under the exclusive dominion of the United States, it is provided that plural marriages shall not be allowed. Can a man excuse his practice to the contrary because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances." If this is not a distinct pronouncement not only that this is not a Christian coun-

try, but that legally it is not even a religious country, I do not know what meaning it can have.

But the most explicit expression that we do possess on this subject is in one of the treaties of our Government with another government. Every treaty under the Constitution is a part of the supreme law of the land and as such its always well-weighed language is binding on all the States and on our entire citizenship. Such a treaty President Washington negotiated in 1796 with Tripoli and with his signature it was submitted to the Senate on the 26th of May, 1797, and promulgated on June 10, 1797, under the presidency of John Adams. The eleventh article of this treaty contains the deliberate and memorable words which ought to settle beyond the possibility of cavil this question as to the Christian character of our country. The entire sentence reads :

“As the Government of the United States of America is not in any sense founded on the Christian religion, as it has in itself no character of enmity against the laws, religion or tranquility of Mussulmer; and as the said states never entered into any war, or active hostility against any Mohammedan natives, it is declared by the parties that no pretext shall ever produce from religious opinions an interruption of harmony between the two nations.”

Our early Presidents and statesmen were thus not merely explicit and unequivocal, but, we might say, even jealously fanatical in this maintenance of the non-Christian and non-religious character of our government. Thomas Jefferson, when he was requested to issue a presidential proclamation appointing a day of national fasting, replied :

“I consider the Government of the United States as interdicted by the Constitution from meddling with relig-

ious institutions, their doctrines, discipline, or religious exercises. * * But it is only proposed that I should recommend, not prescribe a day of fasting and praying. That is, I should indirectly assume to the United States an authority over religious exercises, which the Constitution has directly precluded them from. * * Everyone must act according to the dictates of his own reason, and mine tells me that civil powers alone have been given to the President of the United States, and no authority to direct the religious exercises of his constituents."

It was, furthermore, Thomas Jefferson who met the contention that the common law of England is of authoritative force here in our country and that Christianity is a part of that common law. Jefferson contends that by our Revolution and with the adoption of our American Constitution the common law of England is superseded and abrogated in every particular involving a principle as to which our Constitution is at variance with that common law; and then he goes on to show that the maintenance that Christianity is a part of the English common law is based upon a misunderstanding and a mistranslation of a phrase in an old English law book written in Norman French and that Christianity thus has never been and is not a part of the common law of England, some English jurists to the contrary notwithstanding.

It took the Court of England nearly three-quarters of a century to concede the correctness of Jefferson's position. In the case of the "Corporation of Minden vs. Silverstein & Dittmer," 36 Ann. La. 917, Chief Justice Manning, of the Supreme Court of Louisiana, reiterating his opinion in the Bott case emphasizes his maintenance that Christianity is not a part of the law of Louisiana with a quotation from Lord Chief Justice Coleridge to the effect that Christianity is not a part even of the common law of

England. Chief Justice Manning's paragraph is as follows:

"Whenever the common law courts sustain regulations such as this on the ground that Christianity is in a sense however qualified a part of the common law, they can have no weight with us. The common law never prevailed here and the civil law countenances no such pretension. Even in England where that doctrine originated, the Lord Chief Justice emphatically said: 'It is no longer possible to affirm that Christianity is a part of the law of the land. * * * There was a time when that was so in a sense in which it has now ceased to be, a time when their opinions, and when the most orthodox species of non-conformity excluded a man from public office.' Reg. vs. Ramsey and Foote."

Lord Chief Justice Coleridge in this same opinion of April 24, 1883, goes on to say still more emphatically: "Therefore, to base the prosecution of an aspersion of the truth of Christianity on the ground that Christianity is, in the sense used by Lord Hale, or Lord Raymond, or Lord Tenterden, the law of the land, is in my judgment, a mistake; it is to forget that law grows." And one of the most cogent arguments he instances to support this judgment is the fact that Jews can lawfully hold national office and judgeships, and sit on juries in England, a condition, however, which as to the United States has prevailed from the very foundation of our Government!

The reason for the intense, jealous feeling of our earlier statesmen on this subject is that they regarded as just the distinctive feature and the proudest achievement of the Constitution just this complete separation of Church and State, which they thought had been effected definitely and unequivocally for all time by the two constitutional clauses referred to by the Elizabeth Cady

Stanton Club, the clause of Article VI, "No religious test shall ever be required as a qualification to any office or public trust under the United States;" and the clause of the First Amendment, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

It has been stated that it was only through an oversight that the name of God has not been mentioned in the Constitution, that the members of the Constitutional Convention were so engrossed with their labors that they forgot this religious deference. The fact is that they were actually reminded of such religious deference and deliberately refused to exercise it. Why he did it I do not know; probably simply to have this fact as a matter of formal record. But Deist as he was and Atheist as he was accused of being Benjamin Franklin during an obstinate standstill in the business of the Convention, moved that the members unite in prayer and that the sessions be thenceforth always opened with prayer. So nearly unanimous were the members against the proposition—Franklin records, "The Convention, except three or four, thought prayer unnecessary"—that not even a vote was taken on the motion. In the Convention which framed our Constitution and launched upon its destinies the most benignant Government which the world has ever known, there was not a prayer offered from the moment it first convened until the final moment that it adjourned. What food for thought there is in this fact for those who deem necessary the idle invocations and benedictions opening and closing the sessions of our petifogging legislatures and our machine-controlled and predetermined conventions.

The Rev. Dr. Bird Wilson, who was almost a coeval of our earlier statesmen, in a sermon entitled the "Re-

ligion of the Presidents," published in the Albany Daily Advertiser in 1831, says relative to the fundamental instrument of our Government:

"When the war was over and the victory over our enemies won, and the blessings and happiness of liberty and peace were secured, the Constitution was framed and God was neglected. He was not merely forgotten. He was absolutely voted out of the Constitution. The proceedings, as published by Thompson, the secretary, and the history of the day, show that the question was gravely debated whether God should be in the Constitution or not, and after a solemn debate he was deliberately voted out of it."

Now, if all this is not proof that this is not a Christian country, I must confess myself an imbecile, must confess that I do not know what the nature of proof is.

But it is not only my feeble brain and perverted logic that finds all this evidence running to this conclusion. Even America's only normal brain, the sound brain of orthodox Protestantism, has seemingly drawn the same conclusion. When the question of religious instruction in the public schools was agitating the District of Columbia the "Pastors of the Methodist Episcopal Church, South," addressed the Board of Education of the District with a petition in which we find the following passionate protestations:

"We stand second to none in our loyalty to the Constitution and the established institutions of our country, chief among which is the American common school, established on non-sectarian principles by the separation of Church and State. We deny absolutely the right or expediency of introducing religious instruction into the tax-supported school in the United States. We deny the principle that religious instruction, under any possible con-

Stanton Club, the clause of Article VI, "No religious test shall ever be required as a qualification to any office or public trust under the United States;" and the clause of the First Amendment, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

It has been stated that it was only through an oversight that the name of God has not been mentioned in the Constitution, that the members of the Constitutional Convention were so engrossed with their labors that they forgot this religious deference. The fact is that they were actually reminded of such religious deference and deliberately refused to exercise it. Why he did it I do not know; probably simply to have this fact as a matter of formal record. But Deist as he was and Atheist as he was accused of being Benjamin Franklin during an obstinate standstill in the business of the Convention, moved that the members unite in prayer and that the sessions be thenceforth always opened with prayer. So nearly unanimous were the members against the proposition—Franklin records, "The Convention, except three or four, thought prayer unnecessary"—that not even a vote was taken on the motion. In the Convention which framed our Constitution and launched upon its destinies the most benignant Government which the world has ever known, there was not a prayer offered from the moment it first convened until the final moment that it adjourned. What food for thought there is in this fact for those who deem necessary the idle invocations and benedictions opening and closing the sessions of our petifogging legislatures and our machine-controlled and predetermined conventions.

The Rev. Dr. Bird Wilson, who was almost a coeval of our earlier statesmen, in a sermon entitled the "Re-

ligion of the Presidents," published in the Albany Daily Advertiser in 1831, says relative to the fundamental instrument of our Government:

"When the war was over and the victory over our enemies won, and the blessings and happiness of liberty and peace were secured, the Constitution was framed and God was neglected. He was not merely forgotten. He was absolutely voted out of the Constitution. The proceedings, as published by Thompson, the secretary, and the history of the day, show that the question was gravely debated whether God should be in the Constitution or not, and after a solemn debate he was deliberately voted out of it."

Now, if all this is not proof that this is not a Christian country, I must confess myself an imbecile, must confess that I do not know what the nature of proof is.

But it is not only my feeble brain and perverted logic that finds all this evidence running to this conclusion. Even America's only normal brain, the sound brain of orthodox Protestantism, has seemingly drawn the same conclusion. When the question of religious instruction in the public schools was agitating the District of Columbia the "Pastors of the Methodist Episcopal Church, South," addressed the Board of Education of the District with a petition in which we find the following passionate protestations:

"We stand second to none in our loyalty to the Constitution and the established institutions of our country, chief among which is the American common school, established on non-sectarian principles by the separation of Church and State. We deny absolutely the right or expediency of introducing religious instruction into the tax-supported school in the United States. We deny the principle that religious instruction, under any possible con-

tingency, is a proper function of the American State, and brand all arguments and analogies drawn from the educational experience of European countries with a State Church as false and misleading for this country. We deny that the common school is responsible for the moral and religious crisis in the country, and protest against the proposed introduction of religious instruction into the public schools as reactionary, un-American, unconstitutional, illegal, subversive of civil and religious liberty, and, whether advocated wittingly or unwittingly of the vital principles involved, as inimical to the best interests of Church and State, and tending to increase rather than cure the ills of society."

There could be no more eloquent or vigorous maintenance of the secular, the non-Christian, yes, even the non-religious character of our country than we have in these throbbing Protestant sentences. These pastors are simply patriots here, unadulterated Americans. It would be invidious to inquire whose ox it was that was being gored in this instance. Circumstances can never alter cases, at least they can never alter principles with the fine mind, the honest heart and the scrupulous soul of the fanatic.

But it is urged that if we are not Constitutionally a Christian country we nevertheless are a Christian country practically, that in point of fact the vast majority of our population is Christian.

But, is it?

The census of the United States in 1910 places our country's population at 91,972,266. The most liberal estimate of the entire Christian membership of our population, including men, women and children—an estimate made for the Christian Advocate in 1912 by the eminent statistician, Dr. H. K. Carroll, himself an orthodox and

zealous Protestant—is 36,109,405. Less than forty per cent, then, of our population is Christian.

The strength of Christianity as a force and an influence politically is that its numbers are organized. The non-Christian forces—and they are not merely non-Christian, but essentially anti-Christian—simply do not know how to come together.

However, let me momentarily interrupt this thought and carry the argument as to the census one step further. The Protestant denominations are separate and distinct bodies, virtually separate religions. They have only an occasional loose union between them—for some definite political end or purpose. Religiously they cannot be regarded nor are they regarded as a unit, as can be and are the Catholics. The Protestant numbers then must not be contemplated as a whole, but must be considered in their denominational divisions. Now, the largest Protestant sect in our country is the Methodist, which numbers 6,819,660. The Catholics, however, number 12,781,707, nearly two Catholics for every one of the largest Protestant denomination!

If, then, from any argument of numbers we should proclaim this a Christian country, we are simply compelled by every honesty of argument to go further and maintain that this is a Catholic country!

I wonder how our fanatics like this conclusion.

So constantly is the fanatic bawling in season and out of season that this is a Christian country that we have been taking him at his word. He, too, has passed for himself the resolutions of the old Connecticut colonists:

“Resolved, First, that the earth has been given by God to the saints.

“Resolved, Second, that we are the saints.”

And because these resolutions have a parliamentary sound,

we think they must possess some force of validity. We suffer his impertinence when he tells every one who differs with him to get off the earth. In every dissension which his bigotry fires and fans he tells the Jew, for instance, "If you don't like this country, leave it." But the Jew does like this country. He settled here in 1654, within thirty-four years of the time that the Pilgrim Fathers came here. If the priority of thirty-four years makes this a Christian country over against the Jew, what about the priority of the Catholics here over against the Protestants? The Jew was an integral part of the Revolutionary Crisis which established this country. Jewish names were on the non-importation resolutions which started our American separation from the mother country. A Jew was on the military staff of Washington, and Jewish soldiers were in the Colonial armies. The money of the Jew Haym Solomon, advanced without interest, saved the Revolutionary cause from bankruptcy and the only Christian feature about that transaction is that that money has never been paid back even to the pitiable extent of a memorial medal which is all that the family has ever asked. The history of the Jew's persecutions was instanced among the arguments which determined the Constitutional Convention to the complete separation here between Church and State.

Most assuredly, the Jew likes this country, which he helped to make and in the determining of whose character sympathy with his tragic history was a factor. The Jew likes this country very much as it is. He would like it a little better if it would be what the Constitution wants it to be and what the Constitution will yet decree it shall be.

It is the fanatic who does not like this country, who does not like it as the Constitution has thus far succeeded in making it, and likes it much less as the spirit of the Constitution would still further fashion it. The fanatic

wants to change the character of this country. And it is about time that we turned his own sentence against him and remind him that the world is wide, very wide.

He will sooner or later get this reminder. And not simply in words. His mischievous bigotry will yet so frankly and squarely set the issue before our American millions that our non-Christian numbers will be forced into coalescence and organization. And when that day comes our American principle of the complete divorce of Church and State will triumph to the full extreme of its logic, religion will be silenced in politics, every Governmental department will be thoroughly secularized, the fanatic will be throttled in America and all decent people will be at peace, differing like gentlemen and ladies on all their public issues, going peaceably like gentlemen and ladies their differing private ways in religious matters, and like gentlemen and ladies holding each other in mutual esteem, discharging the common tasks of human duty and love in a spirit of brotherhood and sisterhood.

REMARKS

BY

RABBI MOSES P. JACOBSON

*Before the Caddo Parish School Board, Shreveport, La.,
March 12, 1913, in Opposition to the Petition
to Introduce Religious Exercises Into
the Public Schools.*

In supplementation of the remarks of Mr. Herold I can say only a few words. We desisted in the canvas to secure further signatures to our protest only when we had secured the opinion, adverse to the petition, by the Superintendent of the State Board of Education and when the Parish Board had the similarly adverse opinion

of the District Attorney here. We thought any further efforts in this direction entirely unnecessary.

From the first it has been difficult to me to discuss calmly this proposition whose direct conflict with the Constitution of our State and the fundamental law of our schools seems to me axiomatic. The new resolution purports to offer a compromise in this matter, although it is the same old resolution over again. However, there can be no compromise with a flagrant violation of the law. Any such compromise in deliberate violation of law would be what is technically known in law as the compounding of a felony. It is not as a Jew, but as an American, as a law-abiding and a law-respecting American that I am opposing this measure. And it is a disgrace that when I take a stand in my American character my religion should be made an object of sectarian attack.

It is about time that this discussion be nailed down to its decencies and its honesties. All this quibbling about sectarianism is beside the mark. Article 53 of the Constitution says explicitly that "no preference shall ever be given to, nor any discrimination made against. . . . any form of religious faith or worship." This precludes all religious exercises of any character whatsoever. You are not allowed to give any preference to any form of religious faith or worship, and what is proposed by this measure is a form of religious worship. This cannot be gainsaid.

Nor does the Constitution admit such a form of religious faith or worship on any plea or pretext whatsoever. It prohibits it categorically, and no pretense of discipline or instruction can smuggle it in.

But even on account of discipline or instruction, the introduction of religious exercises is not within the decision of the Parish Board. Section 3, of Article 214,

of the act of 1912, says definitely, "The State Board of Education shall prepare rules, by-laws and regulations for the government of the public schools of the State, which shall be enforced by the Parish superintendents and the several school boards, and shall give such directions as it may deem proper as to the branches of study which shall be taught." This article thus covers the entire matter of both discipline and instruction, as to both of which the Parish Boards have power of discretion only within the limits of the regulations set them by the State Board. They can not add to or detract from those regulations. They must simply abide by and enforce them.

This measure then has no right to be considered by you for a single moment. It ought not to be put even to a vote. Your chairman or president ought to declare the whole matter out of order.

None of you is here in his individual capacity. Whatever may be your prepossessions in this matter you are not to indulge your private inclinations. You are the representatives of the entire people under the law. Even if a majority of the people desire a measure, but the law be with the minority, your presumed word of honor as gentlemen and as citizens in assuming your office, even if there be no formal oath of office, will compel you to decide with that minority which the law supports. If the law be against this petition,—as it is, and as your own attorney and the superintendent of the State Board of Education have informed you that it is,—and these petitioners deem that the absence of the regulation proposed by them does them and does the schools an injury, it is not you who can give them relief or countenance. It is either only the State Board or the Legislature. The State Board I am sure will rule against them. Even

the Legislature is prevented from giving them countenance or support. It is my humble opinion that they can succeed with their measure, if they at all can, only through a new Constitutional convention of our entire people. In every event here they must receive no countenance or support unless you are faithless to what I deem your word of honor and to your position of trust, in which I maintain that not one of you would have been placed if previous to his election he had announced that he would consider this measure or encourage this agitation.

I may say that it is only for your sakes that I am anxious that you should deny this petition and deny it explicitly on the ground that by law you are prevented from considering it either favorably or unfavorably. I don't ask you to commit yourselves one way or the other on the merits of the proposition. Individually you may favor it. As a Board you have no right to consider it at all. I would not want you to pronounce in favor even of our contention that the introduction of such exercises would be undesirable. For such a pronouncement would imply your privilege to entertain the proposition which I maintain is not at all at your disposal. I want you as the Board of Education of the Parish in which we dwell to pronounce yourself a law-respecting body so that we can have respect for you as a Board and so that as a Board you can command the respect of the children under your control.

Your decision except as it means your own scoring for respect and decency and law-abidingness is utterly immaterial to me. Whatever your decision be we win. If you rule the proposition out we win with you. If you rule the proposition in we win without you.

We ask no favor, gentlemen. We think the law good as it stands. But whether good or bad it is with us.

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